

SENATE BILL 3078  
By Cohen

AN ACT to enact the "Charitable Gaming Act" and to amend Tennessee Code Annotated, Title 3; Title 4; Title 38; Title 39 and Title 48.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 3, is amended by adding the following language as a new chapter:

Section 3-17-101. This chapter shall be known, and may be cited, as the "Charitable Gaming Act."

Section 3-17-102. As used in this chapter, unless the context otherwise requires:

(1) "Annual event" means an activity conducted only one (1) time each year and conforms to the constitutional requirements of Section 5, Article XI of the Constitution of Tennessee. The activity shall not exceed one (1) day, but shall not include time allocated to planning and marketing the event;

(2) "Charitable games" shall include the following games of chance: raffles, reverse raffles, duck races or similar games, and cake walks. All other games of chance are prohibited.

(3) "Charitable games event" or "event" means the type of fundraising event authorized by the Act at which participants pay to play charitable games for the chance of winning cash or non-cash prizes, and which may be conducted only on the date contained in the notice required pursuant to §3-17-105;

(4) "Conduct" means to direct, supervise, manage, operate, or maintain control or guidance of an activity;

(5) "Existence" means the organization's active demonstrable support of its stated purpose or mission in addition to any actual corporate existence,

including maintaining its gross income tax exemption, and is current in all required tax filings;

(6) "Gaming expenses" means the cost of prizes, supplies, advertising, audit and administration, accounting and legal fees and such other reasonable and proper expenses as are directly incurred for the conduct of a charitable gaming event;

(7) "Gross revenues" means the total amount of money received by an organization from charitable gaming before the deduction of expenses, including prizes;

(8) "Located in this state" means incorporated in this State, the principal office is in this State, or there is a physical presence within this State;

(9) "Person" means a natural person, corporation, partnership, limited partnership, trust, joint venture, association, or any other business operation;

(10) "Prize" means a cash amount or other object of value awarded to a winner. There shall not be a limit on the value of any individual prize; and,

(11) "Qualified organization" means an organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code and has been in continuous existence in the State for at least five (5) years prior to the date of notice provided in Section below. If the organization has local branches or chapters, the term shall include the local branch or chapter operating the charitable game event.

#### Section 3-17-103.

(a) Persons under the age of eighteen (18) years are prohibited from participating in any charitable games event.

(b) A board member or employee of a qualified organization, including members of the immediate family of a board member or employee, is prohibited from receiving prizes awarded during the conduct of a charitable games event.

#### Section 3-17-104.

(a) A charitable games event shall be conducted in the county where the principal office of the qualified organization is located.

(b) A qualified organization that has a physical presence in one (1) or more counties in the state may conduct an annual event in each county where it has established a physical presence; however, the annual event must be conducted on the same day in each county where it has established a physical presence.

Section 3-17-105.

(a) Prior to holding a charitable games event, the board of directors of a qualified organization shall meet to vote to conduct a charitable games event. A record of said vote shall be duly recorded in the minutes of the qualified organization. A charitable games event is deemed to be approved by a qualified organization if the minutes duly reflect an affirmative vote by a majority of the directors. In addition to a record of the vote, the minutes shall duly note:

(1) The type of event;

(2) The date and time of the event;

(3) The location of the event, including the street address and city; and

(4) The substantive program(s) for which the event's proceeds will be used.

(b)

(1) A qualified organization shall file a request with the Tennessee bureau of investigation to perform criminal history records checks on its board officers, staff involved in the planning, promotion and implementation of an event, as well as the officers or directors and staff of any person the organizations contracts with to assist with the event. A criminal history records check of volunteers recruited from the community to assist in the conduct of the event is not required.

(2) Application shall be made no more than six (6) months prior to the date information shall be filed with the general assembly.

(3) The organization shall pay a fee to the Tennessee bureau of investigation for each criminal history record check at the time a request is filed with the agency.

(c)

(1) Prior to holding a charitable games event, a qualified organization shall submit the following information to each house and senate sponsor and/or an office of the general assembly designated to receive the information:

(A) A copy of the letter received from the Internal Revenue Service recognizing the organization's tax exempt status;

(B) A copy of documentation, including, but not limited to, articles of incorporation, trust agreement or articles of association, showing the organization has been in active continuous existence for a period not less than five (5) years;

(C) A copy of the organization's board meeting minutes reflecting an affirmative vote to hold an annual event for the upcoming year;

(D) A copy of a report of each criminal history records check performed by the Tennessee bureau of investigation;

(E) A statement reflecting the type of event to be held and the substantive program, or programs, for which the event's proceeds will be used;

(F) A statement that the board of directors, officers, employees and staff responsible for the event, persons or organizations contracted to assist in the event, and the owner, or owners, of property where event is to be held have not been convicted of a crime related to illegal gambling activity in any

state; fraud; money laundering; RICCO; theft of property; bid-rigging; a lottery related offense; conspiracy or aiding and abetting these offenses; or, has a proprietary, equitable, or credit interest in any business that contracts with a qualified organization to assist with an event; and,

(G) If the organization has previously conducted an event, a statement that said event was conducted in compliance with all the provisions of this act.

(2) A charitable games event shall not be authorized except by vote of two-thirds of the members of both the house and senate of the general assembly.

(d)

(1) No later than thirty (30) days before an event, a qualified organization shall give written notice to the local district attorney and sheriff in each county where the event will be held. The notice shall include the following:

(A) The type of event to be conducted;

(B) The date and time of the event;

(C) The location of the event, including the street address and city;

(D) The name and address of the owner of the property where the event shall be held;

(E) The names and addresses of officers of the organization; and

(F) The names and addresses of staff responsible for the event.

(2) The notice shall be accompanied by a copy of authorization by the general assembly for the qualified organization to hold the event.

(3) The notice shall be signed by the presiding officer and treasurer under penalties of perjury as to the accuracy of the notice.

(e)

(1) No later than thirty (30) days after a charitable games event is held, a qualified organization shall prepare a statement of cash receipts and disbursements covering the event for each physical location.

(2) The statement shall be signed by both the presiding officer and treasurer of the qualified organization and shall be verified under oath or signed under penalties of perjury as to the accuracy of the report.

(3) In the event an organization has an annual audit prepared, the audit shall contain a schedule setting forth the cash receipts and disbursements for each physical location where an event is held. The schedule shall be prepared in accordance with governmental accounting standards board (GASB) and generally accepted audit standards (GAAS) principles, including professional proficiency, independence of attitude and appearance, due professional care, and removal or reporting of limitations on the scope or comprehensiveness of the audit.

(4) The schedule shall be signed by the organization's president and treasurer under penalties of perjury as to the accuracy of the schedule and shall be filed with the county clerk in each county where an event was conducted and shall be accompanied by a fee of ten dollars (\$10.00). The organization shall maintain a copy of the statement or schedule at its principal office, as defined in §3-17-104 above, and upon written request shall make said statement or schedule available for public inspection.

(f) A qualified organization shall separately account for all receipts, disbursements, start-up funds and any other funds or cash flows used in relation to an annual event.

(g) All cash prizes shall be paid by check from the designated account to a named individual. In the case of non-cash prizes, payment shall be made by an appropriate legal instrument. Checks or other legal instruments payable to "Cash" or "Bearer" are expressly prohibited.

Section 3-17-106. If a qualified organization contracts with a person to assist in the conduct of an annual event, said contract shall provide that a sum not less than sixty percent (60%) of gross proceeds from the event must be allocated to the organization for the charitable programs described in §3-17-105(c)(1)(E).

Section 3-17-107 Every person subject to this part shall, as to their activities in Tennessee as may be covered by this part, keep:

(1) True and accurate records of all income and expenses; and,

(2) True records regarding the conduct of any annual event. Unless otherwise provided, such records shall be retained for a period of eight (8) years after the event to which they are related.

Section 3-17-108. All records shall be public records and shall be open to the general public for inspection upon written request.

Section 3-17-109.

(a) Any person who intentionally files false information required to be filed by the provisions of this act commits the offense of perjury, which shall be punishable as a Class A misdemeanor in accordance with § 39-16-702;

(b) Failure to use funds for the purposes described in §3-17-105(c)(1)(E) shall be punishable as theft in accordance with § 39-14-105;

(c) Failure to maintain all records in accordance with any requirements in this chapter shall be punishable as a Class A misdemeanor in accordance with § 39-14-130.

(d) Except as otherwise provided, failure to comply with any requirements in this chapter shall be punishable as a Class A misdemeanor, and shall only be subject to a fine of not less than fifty dollars (\$50.00) and not more than two thousand five hundred dollars (\$2,500).

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring  
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